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10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. **2012-14**

14 **KRISTIN MARIE LEWIS**
805 Seabury Drive
15 San Jose, CA 95136

ACCUSATION

16 **Registered Nurse License No. RN 593751**

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about January 23, 2002, the Board of Registered Nursing issued Registered
25 Nurse License Number RN 593751 to Kristin Marie Lewis (Respondent). The Registered Nurse
26 License was in full force and effect at all times relevant to the charges brought herein and will
27 expire on May 31, 2013, unless renewed.

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1 ability to conduct with safety to the public the practice authorized by his or her license.

2 (c) Be convicted of a criminal offense involving the prescription, consumption, or
3 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
4 or the possession of, or falsification of a record pertaining to, the substances described in
5 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
6 thereof.

7 . . .

8 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
9 revoke a license on the ground that the licensee has been convicted of a crime substantially
10 related to the qualifications, functions, or duties of the business or profession for which the
11 license was issued.

12 9. Section 492 of the Code provides in pertinent part, that, notwithstanding any other
13 provision of law, successful completion of any diversion program under the Penal Code, or
14 successful completion of an alcohol and drug problem assessment program under Article 5
15 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not
16 prohibit any agency established under Division 2 (commencing with Section 500) of this code, or
17 any initiative act referred to in that division, from taking disciplinary action against a licensee or
18 from denying a license for professional misconduct, notwithstanding that evidence of that
19 misconduct may be recorded in a record pertaining to an arrest.

20 10. Section 493 of the Code provides in pertinent part, that, notwithstanding any other
21 provision of law, in a proceeding conducted by a board within the department pursuant to law to
22 deny an application for a license or to suspend or revoke a license or otherwise take disciplinary
23 action against a person who holds a license, upon the ground that the applicant or the licensee has
24 been convicted of a crime substantially related to the qualifications, functions, and duties of the
25 license in question, the record of conviction of the crime shall be conclusive evidence of the fact
26 that the conviction occurred, but only of that fact, and the board may inquire into the
27 circumstances surrounding the commission of the crime in order to fix the degree of discipline or
28 to determine if the conviction is substantially related to the qualifications, functions, and duties of

1 the licensee in question.

2 11. Section 118, subdivision (b), of the Code provides that the suspension/expiration
3 /surrender/cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
4 disciplinary action during the period within which the license may be renewed, restored, reissued
5 or reinstated.

6 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
7 administrative law judge to direct a licentiate found to have committed a violation or violations of
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
9 enforcement of the case.

10 REGULATORY PROVISIONS

11 13. California Code of Regulations, title 16, section 1444, states in pertinent part that a
12 conviction or act shall be considered to be substantially related to the qualifications, functions or
13 duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness
14 of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.

15 CAUSE FOR DISCIPLINE

16 (Substantially Related Conviction)

17 14. Respondent is subject to disciplinary action under sections 2761(f), 2762(b), 2762(c),
18 and 490, as defined in section 1444, title 16, of the California Code of Regulations, pursuant to
19 sections 492 and 493 of the Code, in that on or about October 15, 2010, in California Superior
20 Court, El Dorado County, Case No. S10CRM0686, Respondent was convicted by her plea of
21 Nolo Contendere to the misdemeanor violation, with an admission to the special allegation to a
22 prior conviction, of California Vehicle Code section 23152(b), (driving while having a 0.08% or
23 higher blood alcohol). On or about November 5, 2010, the Court ordered Respondent to serve 4
24 years of summary probation with terms as follows: not operate a motor vehicle without a valid
25 driver's license and insurance; not drive with a measurable amount of alcohol in blood; submit to
26 chemical test of blood, breath or urine; submit to alcohol and field sobriety tests; not frequent
27 places where alcohol is chief item of sale; not to have in possession, or control any alcohol; not to
28 drive any vehicle unless it is equipped with ignition interlock device; and to install and maintain a

1 vehicle interlock device for 1 year. The Court further sentenced Respondent to serve 10 days in
2 jail with 2 days' credit for time served and the option to complete her sentence by work program,
3 electronic monitoring, to complete in Santa Clara County on in Placerville. Respondent was
4 ordered to pay fines of \$2,503.00. The circumstances of Respondent's conviction are as follows:

5 a. On or about July 24, 2010, at 2340 hours, a California Highway Patrol officer
6 observed a vehicle with passengers traveling 60 miles an hour in a 35 mile an hour zone. The
7 officer initiated a traffic stop and observed that the driver, identified as Respondent, showed
8 objective signs and symptoms of intoxication including the strong smell of alcohol from her
9 breath and person. The officer also observed that Respondent swayed approximately 1 to 2
10 inches from center in a circular fashion. Respondent admitted to having 1 glass of wine at a
11 restaurant. She also stated that she had a back injury and that she took anti-inflammatory,
12 flexural and pain medication for a back injury. Respondent demonstrated impairment on the field
13 sobriety test administered by the officer. She refused to take a PAS test but submitted to a blood
14 test resulting and was subsequently charged with two misdemeanor counts of driving under the
15 influence. Count one charged Respondent with violating Vehicle Code section 23152(a) (driving
16 under the influence of alcohol or drugs). Count two charged Respondent with violating Vehicle
17 Code section 23152(b) (driving while having a 0.08% or higher blood alcohol) with a special
18 allegation for driving under the influence with a blood alcohol content of .15% or higher and
19 another special allegation for driving under the influence with a prior conviction for the violation
20 of California Vehicle Code section 23152(a) as well as judicial notice of having a prior
21 conviction. Count One was dismissed and Respondent pled No Contest to Count Two for driving
22 under the influence while having a 0.17 % blood alcohol, admitting the special allegation for
23 driving under the influence with priors.

24 OTHER MATTERS

25 15. On or about January 27, 2005, in the matter entitled *People of the State of California*
26 *vs. Kristin Marie Lewis*, before the California Superior Court, County of Santa Clara, San Jose
27 Facility, in Case No. CC464844, Respondent was convicted by her plea of Nolo Contendere for
28 the misdemeanor violation of California Vehicle Code section 23152(a) (driving under the

1 influence of alcohol). Imposition of the sentence was suspended. The Court granted Respondent
2 3 years of Court probation and ordered her to enroll in a 6 month long first offender's program.
3 Further, her driver's license was restricted for 6 months for use to, from, during work/alcohol
4 program/jail. The Court ordered Respondent to pay fines and fees; sentenced her to serve 11 days
5 in county jail on consecutive days in the weekend work program, and granted her 1 day credit for
6 time served.

7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Registered Nursing issue a decision:

- 10 1. Revoking or suspending Registered Nurse License Number RN 593751, issued to
11 Kristin Marie Lewis;
12 2. Ordering Kristin Marie Lewis to pay the Board of Registered Nursing the reasonable
13 costs of the investigation and enforcement of this case, pursuant to Business and Professions
14 Code section 125.3;
15 3. Taking such other and further action as deemed necessary and proper.

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18 DATED: July 8, 2011

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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